

## REVENUE DEPARTMENT[701]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3 and 421.17, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 67, “Administration,” Chapter 68, “Motor Fuel and Undyed Special Fuel,” and Chapter 69, “Liquefied Petroleum Gas—Compressed Natural Gas,” Iowa Administrative Code.

The proposed amendments are necessary to reflect the enactment of 2014 Iowa Acts, Senate File 2338, and 2014 Iowa Acts, House File 2444, division III. 2014 Iowa Acts, Senate File 2338, alters the method used for calculating the tax due on compressed natural gas and liquefied natural gas and makes other corresponding changes. 2014 Iowa Acts, House File 2444, division III, extends to June 30, 2015, the use of the formula for determining the motor fuel tax rate.

Item 1 amends rule 701—67.1(452A) to add a definition of “gallon” to reflect the enactment of 2014 Iowa Acts, Senate File 2338.

Items 2, 3, and 6 are necessary to add “liquefied natural gas” to the types of fuels regulated to reflect the enactment of 2014 Iowa Acts, Senate File 2338.

Items 4 and 5 amend subrules 68.2(1) and 68.2(2) to reflect the extension of the use of the current method for determining the motor fuel tax rate, as required by 2014 Iowa Acts, House File 2444, division III.

Items 7 through 16 add “liquefied natural gas” to the title of Chapter 69 and “L.N.G.” to the several regulations in the chapter. These changes are necessary to reflect the enactment of 2014 Iowa Acts, Senate File 2338.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments and rescissions would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than November 17, 2014, to the Policy Section, Policy & Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Alternatively, requests may be e-mailed to [idrpolicy@iowa.gov](mailto:idrpolicy@iowa.gov). The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before November 4, 2014. Such written comments should be e-mailed to the Policy Section at [idrpolicy@iowa.gov](mailto:idrpolicy@iowa.gov) or mailed to Policy Section, Policy & Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Policy & Communications Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by November 4, 2014.

After analysis and review of this rule making, the Department finds that the amendments related to 2014 Iowa Acts, Senate File 2338, are likely to have a positive impact on jobs. For example, Kwik Star has indicated that the passage of 2014 Iowa Acts, Senate File 2338, was a factor in its plan for expansion in Iowa. Kwik Star has opened or will open new stations in Clear Lake, DeWitt, Davenport, Dubuque, and Waterloo this year. Kwik Star plans to open additional stations in 2015. Each store will employ at least 30 workers, including part-time and full-time employees.

These amendments are intended to implement 2014 Iowa Acts, Senate File 2338, and 2014 Iowa Acts, House File 2444, division III.

The following amendments are proposed.

ITEM 1. Adopt the following new definition in rule **701—67.1(452A)**:

“Gallon,” with respect to compressed natural gas, means a gasoline gallon equivalent. A gasoline gallon equivalent of compressed natural gas is five and sixty-six hundredths pounds or one hundred twenty-six and sixty-seven hundredths cubic feet measured at a base temperature of 60 degrees Fahrenheit and a pressure of fourteen and seventy-three hundredths pounds per square inch absolute. “Gallon,” with respect to liquefied natural gas, means a diesel gallon equivalent. A diesel gallon equivalent of liquefied natural gas is six and six hundredths pounds.

ITEM 2. Amend subrule 67.3(5) as follows:

**67.3(5)** *Compressed natural gas, liquefied natural gas, and liquefied petroleum gas dealers and users.* Every compressed natural gas, liquefied natural gas, and liquefied petroleum gas dealer and user is required to keep and preserve the following records:

*a. to e.* No change.

ITEM 3. Amend subparagraph **67.21(1)“c”(4)** as follows:

(4) ~~L.P.G. and C.N.G.~~ Compressed natural gas, liquefied natural gas, and liquefied petroleum gas dealers and users will be requested to post a bond or security when they have had two or more delinquencies in remitting the fuel tax or timely filing monthly returns during the past 12 months. The bond or security will be an amount sufficient to cover 12 months’ fuel tax liability or \$500, whichever is greater.

ITEM 4. Amend subrule 68.2(1) as follows:

**68.2(1)** The following rates of tax apply to the use of fuel in operating motor vehicles and aircraft:

Gasoline	20.3¢ per gallon (for July 1, 2003, through June 30, 2004)
	20.5¢ per gallon (for July 1, 2004, through June 30, 2005)
	20.7¢ per gallon (for July 1, 2005, through June 30, 2006)
	21¢ per gallon (for July 1, 2006, through June 30, 2007)
	20.7¢ per gallon (for July 1, 2007, through June 30, 2008)
	21¢ per gallon (for July 1, 2008, through June 30, <u>2014 2015</u> )
LPG	20¢ per gallon
Ethanol blended gasoline	19¢ per gallon (for July 1, 2003, through June 30, <u>2014 2015</u> )
E-85 gasoline	17¢ per gallon beginning January 1, 2006, through June 30, 2007
	19¢ per gallon (for July 1, 2007, through June 30, <u>2014 2015</u> )
Aviation gasoline	8¢ per gallon
Special fuel (biodiesel, diesel, LNG)	22.5¢ per gallon
Special fuel (aircraft)	3¢ per gallon
CNG	<del>16¢ per 100 cu. ft.</del> <u>21¢ per gallon</u>

ITEM 5. Amend subrule 68.2(2) as follows:

**68.2(2)** Except as otherwise provided in this subrule, until June 30, 2014 2015, this subrule shall apply to the excise tax imposed on each gallon of motor fuel used for any purpose for the privilege of

operating motor vehicles in this state. The rate of the excise tax shall be based on the ethanol distribution percentage. The ethanol distribution percentage is the number of gallons of ethanol blended gasoline that is distributed in this state as expressed as a percentage of the number of gallons of motor fuel, excluding aviation gasoline, distributed in this state. The number of gallons of ethanol blended gasoline and motor fuel distributed in this state shall be based on the total taxable gallons of ethanol blended gasoline and motor fuel as shown on the fuel tax monthly reports issued by the department for January through December for each determination period. The department shall determine the percentage for each determination period beginning January 1 and ending December 31. The rate for the excise tax shall apply for the period beginning July 1 and ending June 30 following the end of the determination period. The rate for the excise tax shall be as follows:

Ethanol Distribution %	Ethanol Tax	Gasoline Tax
00/50	19.0	20.0
50+/55	19.0	20.1
55+/60	19.0	20.3
60+/65	19.0	20.5
65+/70	19.0	20.7
70+/75	19.0	21.0
75+/80	19.3	20.8
80+/85	19.5	20.7
85+/90	19.7	20.4
90+/95	19.9	20.1
95+/100	20.0	20.0

Except as otherwise provided in this subrule, after June 30, ~~2014~~ 2015, an excise tax of 20 cents is imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state.

ITEM 6. Amend subrule 68.2(5), introductory paragraph, as follows:

**68.2(5)** Persons having title to motor fuel, ethanol blended gasoline, undyed special fuel, compressed natural gas, liquefied natural gas, or liquefied petroleum gas in storage and held for sale on the effective date of an increase in the excise tax rate imposed on motor fuel, ethanol blended gasoline, undyed special fuel, compressed natural gas, liquefied natural gas, or liquefied petroleum gas shall be subject to an inventory tax based upon the gallonage in storage as of the close of the business day preceding the effective date of the increased excise tax rate of motor fuel, ethanol blended gasoline, undyed special fuel, compressed natural gas, liquefied natural gas, or liquefied petroleum gas which will be subject to the increased excise tax rate.

ITEM 7. Amend **701—Chapter 69**, title, as follows:

LIQUEFIED PETROLEUM GAS—  
COMPRESSED NATURAL GAS—LIQUEFIED NATURAL GAS

ITEM 8. Amend the following definitions in rule **701—69.1(452A)**:

*“Licensed compressed natural gas, liquefied natural gas, and liquefied petroleum gas dealer”* means a person in the business of handling untaxed compressed natural gas, liquefied natural gas, or liquefied petroleum gas who delivers any part of the fuel into a fuel supply tank of any motor vehicle.

*“Licensed compressed natural gas, liquefied natural gas, and liquefied petroleum gas user”* means a person licensed by the department who dispenses compressed natural gas, liquefied natural gas, or liquefied petroleum gas, upon which the special fuel tax has not been previously paid, for highway use from fuel sources owned and controlled by the person into the fuel supply tank of a motor vehicle, or commercial vehicle owned or controlled by the person.

*“Special fuel”* means liquefied petroleum gas, liquefied natural gas, or compressed natural gas.

ITEM 9. Adopt the following **new** definitions in rule **701—69.1(452A)**:

“*Gallon*,” with respect to compressed natural gas, means a gasoline gallon equivalent. A gasoline gallon equivalent of compressed natural gas is five and sixty-six hundredths pounds or one hundred twenty-six and sixty-seven hundredths cubic feet measured at a base temperature of 60 degrees Fahrenheit and a pressure of fourteen and seventy-three hundredths pounds per square inch absolute. “*Gallon*,” with respect to liquefied natural gas, means a diesel gallon equivalent. A diesel gallon equivalent of liquefied natural gas is six and six hundredths pounds.

“*L.N.G.*” shall mean liquefied natural gas.

ITEM 10. Amend rule 701—69.2(452A) as follows:

**701—69.2(452A) Tax rates—time tax attaches—responsible party—payment of the tax.** See 701—subrule 68.2(1) for tax rates. The excise tax on L.P.G. attaches when the special fuel is placed in a fuel supply tank of a motor vehicle. The excise tax on C.N.G. and L.N.G. attaches at the time of delivery into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle. The person responsible for the tax must collect the tax from the purchaser and remit the tax to the department. The person responsible for the tax is:

1. The licensed L.P.G., L.N.G., or C.N.G. dealer, or
2. The licensed L.P.G., L.N.G., or C.N.G. user.

The person responsible for placing L.P.G. into the fuel supply tank of a vehicle and the person responsible for placing C.N.G. or L.N.G. into compressing equipment must hold a license as a dealer or user as defined in Iowa Code section 452A.4.

The return and tax are due no later than the last day of the month following the month the L.P.G. was placed in a vehicle or C.N.G. or L.N.G. was placed into compressing equipment. The tax must be remitted by means of electronic funds transfer, unless the licensee can show that this method of payment would cause undue hardship on the licensee and must be rounded to the nearest whole number. The return must be remitted by means of electronic transmission.

This rule is intended to implement Iowa Code section 452A.8 as amended by ~~2005 Iowa Acts, Senate File 413~~ 2014 Iowa Acts, Senate File 2338.

ITEM 11. Amend rule 701—69.5(452A), introductory paragraph, as follows:

**701—69.5(452A) Persons authorized to place L.P.G., L.N.G., or C.N.G. in the fuel supply tank of a motor vehicle.** The only persons authorized to place L.P.G., L.N.G., or C.N.G. into the fuel supply tank of a motor vehicle are: licensed L.P.G., L.N.G., or C.N.G. dealers, or licensed L.P.G., L.N.G., or C.N.G. users.

ITEM 12. Amend subrules 69.5(1) and 69.5(2) as follows:

**69.5(1) *L.P.G., L.N.G., or C.N.G. dealer’s license.*** Anyone who delivers L.P.G. into the fuel supply tank of a motor vehicle or places C.N.G. or L.N.G. into compression equipment which tank is owned by some other person must be licensed as an L.P.G., L.N.G., or C.N.G. dealer. A dealer may also fuel the dealer’s own vehicles under this license.

**69.5(2) *L.P.G., L.N.G., or C.N.G. user’s license.*** Anyone who delivers L.P.G., L.N.G., or C.N.G. into the fuel supply tank of a motor vehicle, which tank is owned or leased by the person delivering it, must be licensed as an L.P.G., L.N.G., or C.N.G. user. If that same person delivers the fuel into tanks owned by others, that person must be licensed as a dealer in lieu of being licensed as a user.

ITEM 13. Amend rule 701—69.6(452A) as follows:

**701—69.6(452A) Requirements to be licensed.** To become licensed as an L.P.G., L.N.G., or C.N.G. user or dealer, a person must file with the department a completed application form for the appropriate license. A separate license is required for each place of business or location where L.P.G., L.N.G., or C.N.G. is regularly delivered or placed into the fuel supply tank of motor vehicles. See Iowa Code section 452A.4 and 701—subrule 67.23(1) for licensing requirements.

This rule is intended to implement Iowa Code section 452A.8.

ITEM 14. Amend rule 701—69.7(452A), introductory paragraph, as follows:

**701—69.7(452A) Licensed metered pumps.** Before an L.P.G., L.N.G., or C.N.G. dealer's or user's license can be issued, all pumps designed to fuel motor vehicles at the location to be licensed must be (1) metered, (2) inspected, (3) tested for accuracy, (4) sealed, and (5) licensed by the department of agriculture and land stewardship. (See 1970 O.A.G. 2.) If there is more than one pump at a location to be licensed, each pump will be assigned a separate pump number, and the licensee shall report the gallonage each month with reference to such number.

ITEM 15. Amend rule 701—69.8(452A) as follows:

**701—69.8(452A) Single license for each location.** A single license is required for each separate place of business or location where L.P.G., L.N.G., or C.N.G. is delivered into the fuel supply tank of a motor vehicle. For reporting purposes (see rule 701—69.2(452A)), a licensee may file a separate return for each license; or, if arrangements have been made with the department, the licensee may file a consolidated return reporting all sales made at all locations for which a license is held. However, a consolidated return may not be used to combine dealer and user operations. All working papers used in the preparation of the information required must be available for examination by the department. All dealer or user operations at that location will be conducted under that license. A licensee may have a different type of license (dealer, user) for each separate location where L.P.G., L.N.G., or C.N.G. is dispensed. For instance, if a licensee holds an L.P.G., L.N.G., or C.N.G. dealer's license for location A and an L.P.G., L.N.G., or C.N.G. user's license for location B, the licensee may sell fuel to others or fuel the licensee's own vehicles at location A, but may only fuel the licensee's own vehicles at location B.

This rule is intended to implement Iowa Code section 452A.8.

ITEM 16. Amend rule 701—69.9(452A), introductory paragraph, as follows:

**701—69.9(452A) Dealer's and user's license nonassignable.** An L.P.G., L.N.G., or C.N.G. dealer's license or user's license cannot be assigned. The following nonexclusive situations will be considered an assignment: